

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

Civil Action No. 3:20-cv-30042-MGM

BAYSTATE HEALTH, INC.,        )  
                                Plaintiff,        )  
v.                              )  
                                )  
BAY STATE PHYSICAL        )  
THERAPY, P.C., *et al.*,        )  
                                Defendants.        )

**JOINT STATEMENT AND PROPOSED PRETRIAL SCHEDULE**

The parties having satisfied their obligations under Fed. R. Civ. P. 26(f) and LR 16.1 to confer and discuss the pretrial schedule, and Plaintiff Baystate Health, Inc. and Defendants Bay State Physical Therapy, P.C., Bay State Physical Therapy of Randolph, Inc., and Steven Windwer having agreed upon a Proposed Pretrial Schedule, they submit the following for the review of the Court.

**Agenda Of Matters To Be Discussed  
At The Scheduling Conference**

**I. Settlement Proposal.**

Counsel for the parties have engaged in substantive talks concerning the settlement of this matter. Plaintiff has submitted a written settlement offer in compliance with LR 16.1(c) and defense counsel have conferred with their clients on the subject of the settlement. Settlement discussions are proceeding in good faith.

**II. Alternative Dispute Resolution.**

The Parties are amenable to Court sponsored mediation to assist in resolution of this matter.

### **III. Proposed Scheduling Order.**

The Parties propose the following scheduling order.

#### **PROPOSED DISCOVERY PLAN AND SCHEDULE**

1.     ***Pre-Discovery Disclosures.*** The parties will exchange by February 18, 2021, the information required by Fed. R. Civ. P. 26(a)(1).

2.     ***Amendments to the Pleadings.*** All motions to amend the pleadings shall be filed on or before August 6, 2021.

3.     ***Discovery.*** The Parties have agreed on the following proposed discovery schedule:

- (a)     All fact discovery shall be commenced so as to be completed by July 9, 2021.
- (b)     Discovery shall be dictated by Fed. R. Civ. P. 26(b) and Local Rule 26.1.
- (c)     Reports from retained experts required by Fed. R. Civ. P. 26 (a)(2) on issues where a party bears the burden of proof shall be served on October 8, 2021.
- (d)     Responsive expert reports shall be served by November 12, 2021.
- (e)     Counter reports to responsive reports shall be served by December 10, 2021.
- (f)     Any party desiring to depose any expert witness shall notice and complete said deposition no later than January 14, 2022, unless otherwise agreed by the parties.

4.     ***Case Dispositive Motions.*** Any case dispositive motions, pursuant to the Federal Rules of Civil Procedure, shall be served by March 4, 2022.

**IV. Protective Order.**

The parties will be preparing a mutually agreeable protective order prior to the initiation of discovery.

**V. Certifications.**

Certifications signed by counsel and by an authorized representative of each party affirming that each party and that party's counsel have conferred as required by LR 16.1(d)(3) are attached.

**VI. Consent to Trial by Magistrate Judge.** The parties do not consent to trial by magistrate judge.

Dated this 20th day of January 2021.

Counsel for Defendants  
Baystate Physical Therapy, P.C., *et al.*

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 20, 2021, this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (“NEF”).

*/s/ James C. Duda*

James C. Duda

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